

**IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF GEORGIA**

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|---------------------------|---|------------------------------|
| IN RE: |) | |
| |) | |
| KENNETH R. PIERCE, |) | CHAPTER 12 |
| |) | CASE NO. 17-60154-EJC |
| Debtor. |) | |

SECOND MOTION TO INCUR DEBT

NOW COMES KENNETH R. PIERCE, Debtor in the above-referenced matter (“Debtor”), and files this Second Motion to Incur Debt pursuant to 11 U.S.C. § 364(d) and Rule 4001(c) as follows:

1.

Debtor filed a voluntary petition for relief under Chapter 12 of the Bankruptcy Code on April 3, 2017.

2.

Debtor is engaged in farming operations and wishes to incur debt with the Bank of Newington for the purpose of complete the financing of his 2017 farming expenses, including but not limited to: harvesting costs, fertilizer, chemicals, fuel, irrigation, parts, repairs and maintenance, labor, equipment payments, utilities, and other miscellaneous expenses. In particular, Debtor has begun harvesting his corn crop and will need to harvest his peanut crop soon. These funds are needed to protect and harvest the crops.

3.

A previous Motion to Incur Debt was filed on April 4, 2017 (Docket #5) resulting in a final Order Approving the Motion to Incur Debt entered on April 28, 2017 (Docket #35) allowing the Bank of Newington to provide Debtor post-petition financing with an \$800,000.00 line of credit (hereinafter the “First Loan”).

4.

Debtor has used the funds from the First Loan and needs an additional \$115,000.00 to complete the financing of the 2017 crop harvest and other expenses. The Bank of Newington is willing to loan funds to Debtor via a \$115,000.00 line of credit accruing interest at 9.50% with a maturity date of March 1, 2018 (hereinafter the “Second Loan”). The Bank will also require the payment of a 1.0% loan fee in the amount of \$1,150.00 on the Second Loan. The Second Loan

would be secured by various collateral, including but not limited to, (a) a first-in-priority security interest in all 2017 Crops and Farm Products of the Debtor, now existing or hereafter raised or grown, all proceeds and products of said crops, all rights and interests of the Debtor in and to payments under any federal or state governmental programs (including, but not limited to, payments in kind, deficiency payments, letters of entitlement, warehouse receipts, storage payments, emergency assistance payments, diversion payments, conservation reserve payments, and payments arising under any program administered by the Commodity Credit Corporation and/or the United States Department of Agriculture), crop insurance, and an assignment of rents and leases; and (b) all existing collateral in which the Bank currently holds a perfected security interest, all of said collateral being more particularly described and identified in the Promissory Note and related exhibits incorporated herein by reference (hereinafter “the Collateral”). See the Promissory Notes and Exhibits attached hereto as Exhibit 1.

The Collateral is the same collateral in which the Bank of Newington already holds a perfected security interest regarding the First Loan. Except for the security interests related to the 2017 crops, the Collateral is also the same collateral held by the Bank of Newington pre-petition.

5.

Debtor wishes to be allowed to incur the debt from the Bank of Newington as described herein and in the attached Promissory Note and Exhibits. The Second Loan is necessary for Debtor to complete his farming operations for his 2017 crops. The Second Loan would be repaid from the sale of the 2017 crops, farm program payments and/or crop insurance payments per the terms of the attached Promissory Note and Exhibits.

7.

Debtor contends that he cannot obtain the necessary funds elsewhere within the short time needed to pay for the harvesting of the 2017 crops. Upon information and belief, the Bank of Newington will be adequately protected by the Collateral.

8.

Debtor contends that immediate and irreparable harm to the estate will occur if he does not receive authorization to incur debt.

WHEREFORE, Debtor respectfully requests that he be permitted to incur debt and obtain an additional line of credit of up to \$115,000.00 with the Bank of Newington pursuant to the

terms of the attached Promissory Note and Exhibits and secured as set forth therein.

This 27th day of September, 2017.

H. LEHMAN FRANKLIN, P.C.

/s/ Kimberly S. Ward

Kimberly S. Ward

Georgia Bar No. 682042

Attorney for Debtor

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CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically served the foregoing Second Motion to Incur Debt and Proposed Order upon James C. Overstreet, Jr., Chapter 12 Trustee; Matthew Mills, Assistant U.S. Trustee; and R. Kenny Stone, Attorney for the Bank of Newington.

This 27th day of September, 2017.

H. LEHMAN FRANKLIN, P.C.

/s/ Kimberly S. Ward

Kimberly S. Ward

Georgia Bar No. 682042

Attorney for Debtor

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